

AMENDED IN SENATE JUNE 30, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1053

Introduced by Assembly Member Solorio

February 27, 2009

An act to add Section 1766.2 to, *to add Chapter 4 (commencing with Section 1400) to Part 1 of Division 2 of, and to repeal Chapter 4 (commencing with Section 1300) of Part 1 of Division 2 of, the Welfare and Institutions Code, relating to juveniles.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1053, as amended, Solorio. Juveniles.

Existing law establishes the Interstate Compact on Juveniles.

This bill would repeal the Interstate Compact on Juveniles and instead enact the Interstate Compact for Juveniles. This compact would make the state subject to rules and regulations having the force and effect of statutory law governing the supervision or return of juvenile offenders, including status offenders, in the compacting states as developed at a future date by the Interstate Commission for Juveniles, except when a provision exceeds the constitutional limits imposed on the Legislature, or as specified. The commission consists of commissioners appointed as specified in each state. The compact would also require the state to create a State Council for Interstate Juvenile Supervision that would exercise related duties, as specified. The bill would authorize the commission to levy and collect an annual assessment from the state and the other compacting states to cover the cost of the internal operations

and activities of the commission and its staff. The bill would authorize the commission to impose penalties on the state, including fines, fees, and costs, for default in the performance of the state's obligations under the compact, as determined by the commission. The bill would provide that the compact administrator would be the Chief Deputy Secretary for Juvenile Justice.

Existing law requires the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, not less than 30 days prior to the scheduled parole consideration hearing of a ward eligible for release on parole on or after September 1, 2007, as specified, to notify the ward of the date and location of the parole consideration hearing. Existing law provides that the ward has the right to contact his or her parent or guardian to inform the parent or guardian of the date and location of the parole consideration hearing, and to inform other persons identified by the ward who are considered by the division as likely to contribute to a ward's preparation for the parole consideration hearing or the ward's postrelease success. An appropriate staff person is required, on specified occasions, to explain these rights to the ward. The committing court is required, within 15 court days of the release by the division of the ward, to convene a reentry disposition hearing for the ward to identify those conditions of probation that are appropriate under all the circumstances of the case, including incorporating a reentry plan. The county of commitment is required to supervise the reentry of those wards. However, none of these provisions apply to a ward who was committed to the custody of the division for specified offenses, including murder, kidnapping, and certain sex offenses.

This bill would require the division to place all applicable wards, as defined, in its custody on supervised parole within the period of 120 to 90 days prior to ~~reaching the date of discharge~~ *the date of release from custody*, as specified, or *within* the period of 120 to 90 days prior to completion of the maximum period of confinement, as specified, whichever comes first. *This bill would provide that these provisions do not apply when a petition or order for further detention has been requested, as provided. This bill would also provide that a ward who has been released under these provisions shall be subject to revocation of parole for alleged violations committed during the release period.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 4 (commencing with Section 1300) of*
2 *Part 1 of Division 2 of the Welfare and Institutions Code is*
3 *repealed.*

4 *SEC. 2. Chapter 4 (commencing with Section 1400) is added*
5 *to Part 1 of Division 2 of the Welfare and Institutions Code, to*
6 *read:*

7
8 *CHAPTER 4. THE INTERSTATE COMPACT FOR JUVENILES*
9

10 *1400. THE INTERSTATE COMPACT FOR JUVENILES*
11

12 *ARTICLE I*
13 *PURPOSE*
14

15 *The compacting states to this Interstate Compact recognize that*
16 *each state is responsible for the proper supervision or return of*
17 *juveniles, delinquents, and status offenders who are on probation*
18 *or parole and who have absconded, escaped, or run away from*
19 *supervision and control and in so doing have endangered their*
20 *own safety and the safety of others. The compacting states also*
21 *recognize that each state is responsible for the safe return of*
22 *juveniles who have run away from home and in doing so have left*
23 *their state of residence. The compacting states also recognize that*
24 *Congress, by enacting the Crime Control Act (4 U.S.C. Sec. 112),*
25 *has authorized and encouraged compacts for cooperative efforts*
26 *and mutual assistance in the prevention of crime.*

27 *It is the purpose of this compact, through means of joint and*
28 *cooperative action among the compacting states to: (a) ensure*
29 *that the adjudicated juveniles and status offenders subject to this*
30 *compact are provided adequate supervision and services in the*
31 *receiving state as ordered by the adjudicating judge or parole*
32 *authority in the sending state; (b) ensure that the public safety*
33 *interests of the citizens, including the victims of juvenile offenders,*
34 *in both the sending and receiving states are adequately protected;*
35 *(c) return juveniles who have run away, absconded, or escaped*
36 *from supervision or control or have been accused of an offense to*
37 *the state requesting their return; (d) make contracts for the*
38 *cooperative institutionalization in public facilities in member states*

1 *for delinquent youth needing special services; (e) provide for the*
2 *effective tracking and supervision of juveniles; (f) equitably*
3 *allocate the costs, benefits, and obligations of the compacting*
4 *states; (g) establish procedures to manage the movement between*
5 *states of juvenile offenders released to the community under the*
6 *jurisdiction of courts, juvenile departments, or any other criminal*
7 *or juvenile justice agency which has jurisdiction over juvenile*
8 *offenders; (h) insure immediate notice to jurisdictions where*
9 *defined offenders are authorized to travel or to relocate across*
10 *state lines; (i) establish procedures to resolve pending charges*
11 *(detainers) against juvenile offenders prior to transfer or release*
12 *to the community under the terms of this compact; (j) establish a*
13 *system of uniform data collection on information pertaining to*
14 *juveniles subject to this compact that allows access by authorized*
15 *juvenile justice and criminal justice officials, and regular reporting*
16 *of compact activities to heads of state executive, judicial, and*
17 *legislative branches and juvenile and criminal justice*
18 *administrators; (k) monitor compliance with rules governing*
19 *interstate movement of juveniles and initiate interventions to*
20 *address and correct noncompliance; (l) coordinate training and*
21 *education regarding the regulation of interstate movement of*
22 *juveniles for officials involved in such activity; and (m) coordinate*
23 *the implementation and operation of the compact with the Interstate*
24 *Compact for the Placement of Children, the Interstate Compact*
25 *for Adult Offender Supervision, and other compacts affecting*
26 *juveniles particularly in those cases where concurrent or*
27 *overlapping supervision issues arise. It is the policy of the*
28 *compacting states that the activities conducted by the Interstate*
29 *Commission created herein are the formation of public policies*
30 *and therefore are public business. Furthermore, the compacting*
31 *states shall cooperate and observe their individual and collective*
32 *duties and responsibilities for the prompt return and acceptance*
33 *of juveniles subject to the provisions of this compact. The*
34 *provisions of this compact shall be reasonably and liberally*
35 *construed to accomplish the purposes and policies of the compact.*

36
37 *ARTICLE II*
38 *DEFINITIONS*
39

1 *As used in this compact, unless the context clearly requires a*
2 *different construction:*

3 (i) *“Bylaws” means those bylaws established by the Interstate*
4 *Commission for its governance, or for directing or controlling its*
5 *actions or conduct.*

6 (ii) *“Compact Administrator” means the individual in each*
7 *compacting state appointed pursuant to the terms of this compact,*
8 *responsible for the administration and management of the state’s*
9 *supervision and transfer of juveniles subject to the terms of this*
10 *compact, the rules adopted by the Interstate Commission, and*
11 *policies adopted by the State Council for Interstate Juvenile*
12 *Supervision under this compact.*

13 (iii) *“Compacting state” means any state which has enacted the*
14 *enabling legislation for this compact.*

15 (iv) *“Commissioner” means the voting representative of each*
16 *compacting state appointed pursuant to Article III of this compact.*

17 (v) *“Court” means any court having jurisdiction over*
18 *delinquent, neglected, or dependent children.*

19 (vi) *“Deputy Compact Administrator” means the individual, if*
20 *any, in each compacting state appointed to act on behalf of a*
21 *Compact Administrator pursuant to the terms of this compact*
22 *responsible for the administration and management of the state’s*
23 *supervision and transfer of juveniles subject to the terms of this*
24 *compact, the rules adopted by the Interstate Commission and*
25 *policies adopted by the State Council under this compact.*

26 (vii) *“Interstate Commission” means the Interstate Commission*
27 *for Juveniles created by Article III of this compact.*

28 (viii) *“Juvenile” means any person defined as a juvenile in any*
29 *member state or by the rules of the Interstate Commission,*
30 *including:*

31 (1) *“Accused delinquent” means a person charged with an*
32 *offense that, if committed by an adult, would be a criminal offense;*

33 (2) *“Adjudicated delinquent” means a person found to have*
34 *committed an offense that, if committed by an adult, would be a*
35 *criminal offense;*

36 (3) *“Accused status offender” means a person charged with an*
37 *offense that would not be a criminal offense if committed by an*
38 *adult;*

1 (4) “Adjudicated status offender” means a person found to have
2 committed an offense that would not be a criminal offense if
3 committed by an adult; and

4 (5) “Non-offender” means a person in need of supervision who
5 has not been accused or adjudicated a status offender or
6 delinquent.

7 (i) “Noncompacting state” means any state which has not
8 enacted the enabling legislation for this compact.

9 (j) “Probation or parole” means any kind of supervision or
10 conditional release of juveniles authorized under the laws of the
11 compacting states.

12 (k) “Rule” means a written statement by the Interstate
13 Commission promulgated pursuant to Article VI of this compact
14 that is of general applicability, implements, interprets or prescribes
15 a policy or provision of the compact, or an organizational,
16 procedural, or practice requirement of the commission, and has
17 the force and effect of statutory law in a compacting state, and
18 includes the amendment, repeal, or suspension of an existing rule.

19 (l) “State” means a state of the United States, the District of
20 Columbia (or its designee), the Commonwealth of Puerto Rico,
21 the United States Virgin Islands, Guam, American Samoa, and the
22 Northern Marianas Islands.

23 ARTICLE III

24 INTERSTATE COMMISSION FOR JUVENILES

25 (a) The compacting states hereby create the “Interstate
26 Commission for Juveniles.” The commission shall be a body
27 corporate and joint agency of the compacting states. The
28 commission shall have all the responsibilities, powers, and duties
29 set forth herein, and such additional powers as may be conferred
30 upon it by subsequent action of the respective legislatures of the
31 compacting states in accordance with the terms of this compact.

32 (b) The Interstate Commission shall consist of commissioners
33 appointed by the appropriate appointing authority in each state
34 pursuant to the rules and requirements of each compacting state
35 and in consultation with the State Council for Interstate Juvenile
36 Supervision created hereunder. The commissioner shall be the
37 compact administrator, deputy compact administrator, or designee
38 from that state who shall serve on the Interstate Commission in
39
40

1 *such capacity under or pursuant to the applicable law of the*
2 *compacting state.*

3 *(c) In addition to the commissioners who are the voting*
4 *representatives of each state, the Interstate Commission shall*
5 *include individuals who are not commissioners, but who are*
6 *members of interested organizations. Such noncommissioner*
7 *members must include a member of the national organizations of*
8 *governors, legislators, state chief justices, attorneys general,*
9 *Interstate Compact for Adult Offender Supervision, Interstate*
10 *Compact for the Placement of Children, juvenile justice and*
11 *juvenile corrections officials, and crime victims. All*
12 *noncommissioner members of the Interstate Commission shall be*
13 *ex officio (nonvoting) members. The Interstate Commission may*
14 *provide in its bylaws for such additional ex officio (nonvoting)*
15 *members, including members of other national organizations, in*
16 *such numbers as shall be determined by the commission.*

17 *(d) Each compacting state represented at any meeting of the*
18 *commission is entitled to one vote. A majority of the compacting*
19 *states shall constitute a quorum for the transaction of business,*
20 *unless a larger quorum is required by the bylaws of the Interstate*
21 *Commission.*

22 *(e) The commission shall meet at least once each calendar year.*
23 *The chairperson may call additional meetings and, upon the*
24 *request of a simple majority of the compacting states, shall call*
25 *additional meetings. Public notice shall be given of all meetings*
26 *and meetings shall be open to the public.*

27 *(f) The Interstate Commission shall establish an executive*
28 *committee, which shall include commission officers, members, and*
29 *others as determined by the bylaws. The executive committee shall*
30 *have the power to act on behalf of the Interstate Commission*
31 *during periods when the Interstate Commission is not in session,*
32 *with the exception of rulemaking or amendment to the compact.*
33 *The executive committee shall oversee the day-to-day activities of*
34 *the administration of the compact managed by an executive*
35 *director and Interstate Commission staff, and the committee shall*
36 *administer enforcement and compliance with the provisions of the*
37 *compact, its bylaws and rules, and perform such other duties as*
38 *directed by the Interstate Commission or set forth in the bylaws.*

39 *(g) Each member of the Interstate Commission shall have the*
40 *right and power to cast a vote to which that compacting state is*

1 entitled and to participate in the business and affairs of the
2 Interstate Commission. A member shall vote in person and shall
3 not delegate a vote to another compacting state. However, a
4 commissioner, in consultation with the state council, shall appoint
5 another authorized representative, in the absence of the
6 commissioner from that state, to cast a vote on behalf of the
7 compacting state at a specified meeting. The bylaws may provide
8 for members' participation in meetings by telephone or other
9 means of telecommunication or electronic communication.

10 (h) The Interstate Commission's bylaws shall establish
11 conditions and procedures under which the Interstate Commission
12 shall make its information and official records available to the
13 public for inspection or copying. The Interstate Commission may
14 exempt from disclosure any information or official records to the
15 extent they would adversely affect personal privacy rights or
16 proprietary interests.

17 (i) Public notice shall be given of all meetings and all meetings
18 shall be open to the public, except as set forth in the rules or as
19 otherwise provided in the compact. The Interstate Commission
20 and any of its committees may close a meeting to the public where
21 it determines by two-thirds vote that an open meeting would be
22 likely to:

23 (1) Relate solely to the Interstate Commission's internal
24 personnel practices and procedures.

25 (2) Disclose matters specifically exempted from disclosure by
26 statute.

27 (3) Disclose trade secrets or commercial or financial
28 information which is privileged or confidential.

29 (4) Involve accusing any person of a crime, or formally
30 censuring any person.

31 (5) Disclose information of a personal nature where disclosure
32 would constitute a clearly unwarranted invasion of personal
33 privacy.

34 (6) Disclose investigative records compiled for law enforcement
35 purposes.

36 (7) Disclose information contained in or related to examination,
37 operating or condition reports prepared by, or on behalf of or for
38 the use of, the Interstate Commission with respect to a regulated
39 person or entity for the purpose of regulation or supervision of
40 such person or entity.

1 (8) *Disclose information, the premature disclosure of which*
2 *would significantly endanger the stability of a regulated person*
3 *or entity.*

4 (9) *Specifically relate to the Interstate Commission's issuance*
5 *of a subpoena, or its participation in a civil action or other legal*
6 *proceeding.*

7 (j) *For every meeting closed pursuant to this provision, the*
8 *Interstate Commission's legal counsel shall publicly certify that,*
9 *in the legal counsel's opinion, the meeting may be closed to the*
10 *public, and shall reference each relevant exemptive provision. The*
11 *Interstate Commission shall keep minutes which shall fully and*
12 *clearly describe all matters discussed in any meeting and shall*
13 *provide a full and accurate summary of any actions taken, and the*
14 *reasons therefore, including a description of each of the views*
15 *expressed on any item and the record of any roll call vote (reflected*
16 *in the vote of each member on the question). All documents*
17 *considered in connection with any action shall be identified in*
18 *such minutes.*

19 (k) *The Interstate Commission shall collect standardized data*
20 *concerning the interstate movement of juveniles as directed through*
21 *its rules which shall specify the data to be collected, the means of*
22 *collection and data exchange and reporting requirements. Such*
23 *methods of data collection, exchange and reporting shall insofar*
24 *as is reasonably possible conform to up-to-date technology and*
25 *coordinate its information functions with the appropriate repository*
26 *of records.*

27
28 **ARTICLE IV**

29 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**
30

31 *The commission shall have the following powers and duties:*

32 (a) *To provide for dispute resolution among compacting states.*

33 (b) *To promulgate rules to effect the purposes and obligations*
34 *as enumerated in this compact, which shall have the force and*
35 *effect of statutory law and shall be binding in the compacting states*
36 *to the extent and in the manner provided in this compact.*

37 (c) *To oversee, supervise, and coordinate the interstate*
38 *movement of juveniles subject to the terms of this compact and*
39 *any bylaws adopted and rules promulgated by the Interstate*
40 *Commission.*

1 (d) To enforce compliance with the compact provisions, the
2 rules promulgated by the Interstate Commission, and the bylaws,
3 using all necessary and proper means, including but not limited
4 to the use of judicial process.

5 (e) To establish and maintain offices which shall be located
6 within one or more of the compacting states.

7 (f) To purchase and maintain insurance and bonds.

8 (g) To borrow, accept, hire, or contract for services of
9 personnel.

10 (h) To establish and appoint committees and hire staff which it
11 deems necessary for the carrying out of its functions including,
12 but not limited to, an executive committee as required by Article
13 III which shall have the power to act on behalf of the Interstate
14 Commission in carrying out its powers and duties hereunder.

15 (i) To elect or appoint such officers, attorneys, employees,
16 agents, or consultants, and to fix their compensation, define their
17 duties and determine their qualifications, and to establish the
18 Interstate Commission's personnel policies and programs relating
19 to, *inter alia*, conflicts of interest, rates of compensation, and
20 qualifications of personnel.

21 (j) To accept any and all donations and grants of money,
22 equipment, supplies, materials, and services, and to receive, utilize,
23 and dispose of it.

24 (k) To lease, purchase, accept contributions or donations of, or
25 otherwise to own, hold, improve or use any property, real,
26 personal, or mixed.

27 (l) To sell, convey, mortgage, pledge, lease, exchange, abandon,
28 or otherwise dispose of any property, real, personal or mixed.

29 (m) To establish a budget and make expenditures and levy dues
30 as provided in Article VIII of this compact.

31 (n) To sue and be sued.

32 (o) To adopt a seal and bylaws governing the management and
33 operation of the Interstate Commission.

34 (p) To perform such functions as may be necessary or
35 appropriate to achieve the purposes of this compact.

36 (q) To report annually to the legislatures, governors, judiciary,
37 and state councils of the compacting states concerning the activities
38 of the Interstate Commission during the preceding year. Such
39 reports shall also include any recommendations that may have
40 been adopted by the Interstate Commission.

1 (r) *To coordinate education, training, and public awareness*
2 *regarding the interstate movement of juveniles for officials involved*
3 *in such activity.*

4 (s) *To establish uniform standards of the reporting, collecting,*
5 *and exchanging of data.*

6 (t) *The Interstate Commission shall maintain its corporate books*
7 *and records in accordance with the bylaws.*

8
9 ARTICLE V

10 ORGANIZATION AND OPERATION OF THE INTERSTATE
11 COMMISSION
12

13 (a) *Section A. Bylaws. The Interstate Commission shall, by a*
14 *majority of the members present and voting, within 12 months*
15 *after the first Interstate Commission meeting, adopt bylaws to*
16 *govern its conduct as may be necessary or appropriate to carry*
17 *out the purposes of the compact, including, but not limited to:*

18 (1) *Establishing the fiscal year of the Interstate Commission.*

19 (2) *Establishing an executive committee and such other*
20 *committees as may be necessary.*

21 (3) *Provide for the establishment of committees governing any*
22 *general or specific delegation of any authority or function of the*
23 *Interstate Commission.*

24 (4) *Providing reasonable procedures for calling and conducting*
25 *meetings of the Interstate Commission, and ensuring reasonable*
26 *notice of each such meeting.*

27 (5) *Establishing the titles and responsibilities of the officers of*
28 *the Interstate Commission.*

29 (6) *Providing a mechanism for concluding the operations of the*
30 *Interstate Commission and the return of any surplus funds that*
31 *may exist upon the termination of the compact after the payment*
32 *or reserving of all of its debts and obligations.*

33 (7) *Providing “start-up” rules for initial administration of the*
34 *compact.*

35 (8) *Establishing standards and procedures for compliance and*
36 *technical assistance in carrying out the compact.*

37 (b) *Section B. Officers and Staff*

38 (1) *The Interstate Commission shall, by a majority of the*
39 *members, elect annually from among its members a chairperson*
40 *and a vice chairperson, each of whom shall have such authority*

1 *and duties as may be specified in the bylaws. The chairperson or,*
2 *in the chairperson's absence or disability, the vice-chairperson*
3 *shall preside at all meetings of the Interstate Commission. The*
4 *officers so elected shall serve without compensation or*
5 *remuneration from the Interstate Commission; provided that,*
6 *subject to the availability of budgeted funds, the officers shall be*
7 *reimbursed for any ordinary and necessary costs and expenses*
8 *incurred by them in the performance of their duties and*
9 *responsibilities as officers of the Interstate Commission.*

10 *(2) The Interstate Commission shall, through its executive*
11 *committee, appoint or retain an executive director for such period,*
12 *upon such terms and conditions and for such compensation as the*
13 *Interstate Commission may deem appropriate. The executive*
14 *director shall serve as secretary to the Interstate Commission, but*
15 *shall not be a member and shall hire and supervise such other*
16 *staff as may be authorized by the Interstate Commission.*

17 *(c) Section C. Qualified Immunity, Defense, and Indemnification*

18 *(1) The commission's executive director and employees shall*
19 *be immune from suit and liability, either personally or in their*
20 *official capacity, for any claim for damage to or loss of property*
21 *or personal injury or other civil liability caused or arising out of*
22 *or relating to any actual or alleged act, error, or omission that*
23 *occurred, or that such person had a reasonable basis for believing*
24 *occurred within the scope of commission employment, duties, or*
25 *responsibilities, provided, that any such person shall not be*
26 *protected from suit or liability for any damage, loss, injury, or*
27 *liability caused by the intentional or willful and wanton misconduct*
28 *of any such person.*

29 *(2) The liability of any commissioner, or the employee or agent*
30 *of a commissioner, acting within the scope of such person's*
31 *employment or duties for acts, errors, or omissions occurring*
32 *within such person's state may not exceed the limits of liability set*
33 *forth under the United States Constitution and laws of that state*
34 *for state officials, employees, and agents. Nothing in this paragraph*
35 *shall be construed to protect any such person from suit or liability*
36 *for any damage, loss, injury, or liability caused by the intentional*
37 *or willful and wanton misconduct of any such person.*

38 *(3) The Interstate Commission shall defend the executive*
39 *director or the employees or representatives of the Interstate*
40 *Commission and, subject to the approval of the Attorney General*

1 of the state represented by any commissioner of a compacting
2 state, shall defend such commissioner or the commissioner's
3 representatives or employees in any civil action seeking to impose
4 liability arising out of any actual or alleged act, error or omission
5 that occurred within the scope of Interstate Commission
6 employment, duties or responsibilities, or that the defendant had
7 a reasonable basis for believing occurred within the scope of
8 Interstate Commission employment, duties, or responsibilities,
9 provided that the actual or alleged act, error, or omission did not
10 result from intentional or willful and wanton misconduct on the
11 part of such person.

12 (4) The Interstate Commission shall indemnify and hold the
13 commissioner of a compacting state, or the commissioner's
14 representatives or employees, or the Interstate Commission's
15 representatives or employees, harmless in the amount of any
16 settlement or judgment obtained against such persons arising out
17 of any actual or alleged act, error, or omission that occurred within
18 the scope of Interstate Commission employment, duties, or
19 responsibilities, or that such persons had a reasonable basis for
20 believing occurred within the scope of Interstate Commission
21 employment, duties, or responsibilities, provided that the actual
22 or alleged act, error, or omission did not result from intentional
23 or willful and wanton misconduct on the part of such persons.

24
25 ARTICLE VI
26 RULEMAKING FUNCTIONS OF THE INTERSTATE
27 COMMISSION
28

29 (a) The Interstate Commission shall promulgate and publish
30 rules in order to effectively and efficiently achieve the purposes
31 of the compact.

32 (b) Rulemaking shall occur pursuant to the criteria set forth in
33 this article and the bylaws and rules adopted pursuant thereto.
34 Such rulemaking shall substantially conform to the principles of
35 the "Model State Administrative Procedures Act," 1981 Act,
36 Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other
37 administrative procedures act, as the Interstate Commission deems
38 appropriate consistent with the due process requirements under
39 the United States Constitution as now or hereafter interpreted by
40 the United States Supreme Court. All rules and amendments shall

1 *become binding as of the date specified, as published with the final*
2 *version of the rule as approved by the commission.*

3 *(c) When promulgating a rule, the Interstate Commission shall,*
4 *at a minimum:*

5 *(1) Publish the proposed rule's entire text stating the reason(s)*
6 *for that proposed rule.*

7 *(2) Allow and invite any and all persons to submit written data,*
8 *facts, opinions and arguments, which information shall be added*
9 *to the record, and be made publicly available.*

10 *(3) Provide an opportunity for an informal hearing if petitioned*
11 *by 10 or more persons.*

12 *(4) Promulgate a final rule and its effective date, if appropriate,*
13 *based on input from state or local officials, or interested parties.*

14 *(d) Allow, not later than sixty days after a rule is promulgated,*
15 *any interested person to file a petition in the United States District*
16 *Court for the District of Columbia or in the Federal District Court*
17 *where the Interstate Commission's principal office is located for*
18 *judicial review of such rule. If the court finds that the Interstate*
19 *Commission's action is not supported by substantial evidence in*
20 *the rulemaking record, the court shall hold the rule unlawful and*
21 *set it aside. For purposes of this subdivision, evidence is substantial*
22 *if it would be considered substantial evidence under the Model*
23 *State Administrative Procedures Act.*

24 *(e) If a majority of the Legislatures of the compacting states*
25 *rejects a rule, those states may, by enactment of a statute or*
26 *resolution in the same manner used to adopt the compact, cause*
27 *that such rule shall have no further force and effect in any*
28 *compacting state.*

29 *(f) The existing rules governing the operation of the Interstate*
30 *Compact on Juveniles superceded by this act shall be null and*
31 *void 12 months after the first meeting of the Interstate Commission*
32 *created hereunder.*

33 *(g) Upon determination by the Interstate Commission that a*
34 *state of emergency exists, it may promulgate an emergency rule*
35 *which shall become effective immediately upon adoption, provided*
36 *that the usual rulemaking procedures provided hereunder shall*
37 *be retroactively applied to said rule as soon as reasonably possible,*
38 *but no later than 90 days after the effective date of the emergency*
39 *rule.*

40

ARTICLE VII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION
BY THE INTERSTATE COMMISSION

(a) Section A. Oversight

(1) *The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.*

(2) *The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.*

(b) Section B. Dispute Resolution

(1) *The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.*

(2) *The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.*

(3) *The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.*

ARTICLE VIII
FINANCE

(a) *The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.*

(b) *The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.*

(c) *The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.*

(d) *The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.*

ARTICLE IX
THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact

1 administrator, deputy compact administrator or designee. Each
2 compacting state retains the right to determine the qualifications
3 of the compact administrator or deputy compact administrator.
4 Each state council will advise and may exercise oversight and
5 advocacy concerning that state's participation in Interstate
6 Commission activities and other duties as may be determined by
7 that state, including, but not limited to, development of policy
8 concerning operations and procedures of the compact within that
9 state.

10
11 **ARTICLE X**
12 **COMPACTING STATES, EFFECTIVE DATE, AND**
13 **AMENDMENT**
14

15 (a) Any state, the District of Columbia (or its designee), the
16 Commonwealth of Puerto Rico, the United States Virgin Islands,
17 Guam, American Samoa, and the Northern Marianas Islands as
18 defined in Article II of this compact is eligible to become a
19 compacting state.

20 (b) The compact shall become effective and binding upon
21 legislative enactment of the compact into law by no less than 35
22 of the states. The initial effective date shall be the later of July 1,
23 2004, or upon enactment into law by the 35th jurisdiction.
24 Thereafter it shall become effective and binding as to any other
25 compacting state upon enactment of the compact into law by that
26 state. The governors of nonmember states or their designees shall
27 be invited to participate in the activities of the Interstate
28 Commission on a nonvoting basis prior to adoption of the compact
29 by all states and territories of the United States.

30 (c) The Interstate Commission may propose amendments to the
31 compact for enactment by the compacting states. No amendment
32 shall become effective and binding upon the Interstate Commission
33 and the compacting states unless and until it is enacted into law
34 by unanimous consent of the compacting states.

35
36 **ARTICLE XI**
37 **WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL**
38 **ENFORCEMENT**
39

40 (a) Section A. Withdrawal

1 (1) Once effective, the compact shall continue in force and
2 remain binding upon each and every compacting state; provided
3 that a compacting state may withdraw from the compact by
4 specifically repealing the statute which enacted the compact into
5 law.

6 (2) The effective date of withdrawal is the effective date of the
7 repeal.

8 (3) The withdrawing state shall immediately notify the
9 chairperson of the Interstate Commission in writing upon the
10 introduction of legislation repealing this compact in the
11 withdrawing state. The Interstate Commission shall notify the other
12 compacting states of the withdrawing state's intent to withdraw
13 within sixty days of its receipt thereof.

14 (4) The withdrawing state is responsible for all assessments,
15 obligations, and liabilities incurred through the effective date of
16 withdrawal, including any obligations, the performance of which
17 extend beyond the effective date of withdrawal.

18 (5) Reinstatement following withdrawal of any compacting state
19 shall occur upon the withdrawing state reenacting the compact or
20 upon such later date as determined by the Interstate Commission

21 (b) Section B. Technical Assistance, Fines, Suspension,
22 Termination, and Default

23 (1) If the Interstate Commission determines that any compacting
24 state has at any time defaulted in the performance of any of its
25 obligations or responsibilities under this compact, or the bylaws,
26 or duly promulgated rules, the Interstate Commission may impose
27 any or all of the following penalties:

28 (A) Remedial training and technical assistance as directed by
29 the Interstate Commission.

30 (B) Alternative dispute resolution.

31 (C) Fines, fees, and costs in such amounts as are deemed to be
32 reasonable as fixed by the Interstate Commission.

33 (D) Suspension or termination of membership in the compact,
34 which shall be imposed only after all other reasonable means of
35 securing compliance under the bylaws and rules have been
36 exhausted and the Interstate Commission has therefore determined
37 that the offending state is in default. Immediate notice of suspension
38 shall be given by the Interstate Commission to the Governor, the
39 Chief Justice or the Chief Judicial Officer of the state, the majority
40 and minority leaders of the defaulting state's legislature, and the

1 state council. The grounds for default include, but are not limited
2 to, failure of a compacting state to perform such obligations or
3 responsibilities imposed upon it by this compact, the bylaws, or
4 duly promulgated rules and any other grounds designated in
5 commission bylaws and rules. The Interstate Commission shall
6 immediately notify the defaulting state in writing of the penalty
7 imposed by the Interstate Commission and of the default pending
8 a cure of the default. The commission shall stipulate the conditions
9 and the time period within which the defaulting state must cure
10 its default. If the defaulting state fails to cure the default within
11 the time period specified by the commission, the defaulting state
12 shall be terminated from the compact upon an affirmative vote of
13 a majority of the compacting states and all rights, privileges, and
14 benefits conferred by this compact shall be terminated from the
15 effective date of termination.

16 (2) Within 60 days of the effective date of termination of a
17 defaulting state, the commission shall notify the Governor, the
18 Chief Justice or Chief Judicial Officer, the majority and minority
19 leaders of the defaulting state's legislature, and the state council
20 of such termination.

21 (3) The defaulting state is responsible for all assessments,
22 obligations, and liabilities incurred through the effective date of
23 termination including any obligations, the performance of which
24 extends beyond the effective date of termination.

25 (4) The Interstate Commission shall not bear any costs relating
26 to the defaulting state unless otherwise mutually agreed upon in
27 writing between the Interstate Commission and the defaulting
28 state.

29 (5) Reinstatement following termination of any compacting state
30 requires both a reenactment of the compact by the defaulting state
31 and the approval of the Interstate Commission pursuant to the
32 rules.

33 (c) Section C. Judicial Enforcement

34 The Interstate Commission may, by majority vote of the members,
35 initiate legal action in the United States District Court for the
36 District of Columbia or, at the discretion of the Interstate
37 Commission, in the federal district where the Interstate
38 Commission has its offices, to enforce compliance with the
39 provisions of the compact, its duly promulgated rules, and bylaws,
40 against any compacting state in default. In the event judicial

1 *enforcement is necessary the prevailing party shall be awarded*
2 *all costs of such litigation including reasonable attorney's fees.*

3 *(d) Section D. Dissolution of Compact*

4 *(1) The compact dissolves effective upon the date of the*
5 *withdrawal or default of the compacting state, which reduces*
6 *membership in the compact to one compacting state.*

7 *(2) Upon the dissolution of this compact, the compact becomes*
8 *null and void and shall be of no further force or effect, and the*
9 *business and affairs of the Interstate Commission shall be*
10 *concluded and any surplus funds shall be distributed in accordance*
11 *with the bylaws.*

12
13 *ARTICLE XII*

14 *SEVERABILITY AND CONSTRUCTION*

15
16 *(a) The provisions of this compact shall be severable, and if*
17 *any phrase, clause, sentence, or provision is deemed unenforceable,*
18 *the remaining provisions of the compact shall be enforceable.*

19 *(b) The provisions of this compact shall be liberally construed*
20 *to effectuate its purposes.*

21
22 *ARTICLE XIII*

23 *BINDING EFFECT OF COMPACT AND OTHER LAWS*

24
25 *(a) Section A. Other Laws*

26 *(1) Nothing herein prevents the enforcement of any other law*
27 *of a compacting state that is not inconsistent with this compact.*

28 *(2) All compacting states' laws other than state constitutions*
29 *and other interstate compacts conflicting with this compact are*
30 *superseded to the extent of the conflict.*

31 *(b) Section B. Binding Effect of the Compact*

32 *(1) All lawful actions of the Interstate Commission, including*
33 *all rules and bylaws promulgated by the Interstate Commission,*
34 *are binding upon the compacting states.*

35 *(2) All agreements between the Interstate Commission and the*
36 *compacting states are binding in accordance with their terms.*

37 *(3) Upon the request of a party to a conflict over meaning or*
38 *interpretation of Interstate Commission actions, and upon a*
39 *majority vote of the compacting states, the Interstate Commission*

1 may issue advisory opinions regarding such meaning or
2 interpretation.

3 (4) In the event any provision of this compact exceeds the
4 constitutional limits imposed on the legislature of any compacting
5 state, the obligations, duties, powers, or jurisdiction sought to be
6 conferred by such provision upon the Interstate Commission shall
7 be ineffective and such obligations, duties, powers, or jurisdiction
8 shall remain in the compacting state and shall be exercised by the
9 agency thereof to which such obligations, duties, powers, or
10 jurisdiction are delegated by law in effect at the time this compact
11 becomes effective.

12 1401. The compact administrator shall be the Chief Deputy
13 Secretary for Juvenile Justice in the Department of Corrections
14 and Rehabilitation.

15 **SECTION 1.**

16 SEC. 3. Section 1766.2 is added to the Welfare and Institutions
17 Code, to read:

18 1766.2. (a) ~~All~~ Except as provided in subdivision (b), all
19 applicable wards shall be placed on supervised parole within the
20 period of 120 to 90 days prior to the date of ~~discharge~~ release from
21 custody from a Division of Juvenile Facilities institution pursuant
22 to ~~Sections the discharge provisions of~~ Section 1769, 1770, or
23 1771, or within the period of 120 to 90 days prior to completion
24 of the maximum period of confinement pursuant to Section 731,
25 whichever comes first.

26 (b) ~~For the purpose of this section, "applicable wards" is defined~~
27 ~~as youth who are confined in Division of Juvenile Facilities~~
28 ~~institutions 120 days prior to reaching the date of discharge~~
29 ~~pursuant to Sections 1769, 1770, or 1771, or 120 days prior to~~
30 ~~completion of the maximum period of confinement pursuant to~~
31 ~~Section 731.~~

32 (b) Subdivision (a) shall not apply when a petition or order for
33 further detention of a juvenile has been requested by the Division
34 of Juvenile Facilities or the Juvenile Parole Board pursuant to
35 Section 1800.

36 (c) A ward who has been released under the provisions of
37 subdivision (a) shall be subject to revocation of parole for alleged
38 violations committed during the period of release. Any term of
39 reconfinement under these circumstances shall remain subject to
40 the limits of Section 731, 1769, 1770, or 1771, as applicable in

1 *each case. Any such revocation proceedings shall be in accordance*
2 *with the procedures and due process protections for parolees under*
3 *current law.*

4 *(d) For the purposes of this section, “applicable ward” means*
5 *a person who is confined in a facility or institution operated by*
6 *the Division of Juvenile Facilities 120 days prior to his or her*
7 *discharge date under Section 1769, 1770, or 1771, or 120 days*
8 *prior to completion of the maximum period of confinement under*
9 *Section 731.*